

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

TEXTRON INNOVATIONS INC.,)	
)	
Plaintiff,)	
)	C. A. No. 05-486 (GMS)
v.)	
)	JURY TRIAL DEMANDED
THE TORO COMPANY,)	
)	
Defendant.)	

**DECLARATION OF DAVID E. MOORE IN SUPPORT OF
THE TORO COMPANY'S MEMORANDUM IN SUPPORT OF
ITS MOTION TO STAY LITIGATION PENDING DETERMINATION OF ITS
REQUESTS FOR REEXAMINATION BY THE U.S. PATENT OFFICE AND FOR
EXPEDITED TREATMENT**

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Dated: March 23, 2007

I, David E. Moore, declare as follows:

1. My name is David E. Moore. I am an associate with the law firm of Potter Anderson & Corroon L.L.P., which represents Defendant the Toro Company, ("Toro") in the above-captioned matter.
2. Attached hereto as Exhibit A is a true and correct copy of a three-page document from the U.S. Patent and Trademark Office which lists Inter Partes Reexamination Filing Data - December 31, 2006 and Ex Parte Reexamination Filing Data - December 31, 2006.
3. Attached hereto as Exhibit B is a true and correct copy of *Gioello Enters. Ltd. v. Mattel, Inc.*, C.A. No. 99-375-GMS, 2001 WL 125340, at *1 (D. Del. Jan. 29, 2001).
4. Attached hereto as Exhibit C is a true and correct copy of *Emhart Indus. v. Sankyo Seiki Mfg.*, 3 U.S.P.Q. 2d 1889, 1890 (N.D. Ill. 1987).
5. Attached hereto as Exhibit D is a true and correct copy of *Pegasus Dev. Corp. v. DirectTV, Inc.*, C.A. No. 00-1020-GMS, 2003 U.S. Dist. LEXIS 8052, at *3 (D. Del. May 14, 2003).
6. Attached hereto as Exhibit E is a true and correct copy of *Magna Donnelly Corp. v. Pilkington North America, Inc.*, 2007 U.S. Dist. LEXIS 17536, at *2 (W.D. Mich. Mar. 12, 2007).
7. Attached hereto as Exhibit F is a true and correct copy of *Gonnocci v. Three M Tool & Machine*, 2003 U.S. Dist. LEXIS 24423, at *3, 18 (E.D. Mich. Oct. 7, 2003).

8. Attached hereto as Exhibit G is a true and correct copy of *Rohm & Haas v. Brotech Corp.*, C.A. No. 90-109-SLR, 1992 U.S. Dist. LEXIS 3252, at *4 (D. Del. Mar. 11, 1992).
9. Attached hereto as Exhibit H is a true and correct copy of *Middleton, Inc. v. Minnesota Mining and Manufacturing Co.*, 2004 U.S. Dist. LEXIS 16812, *16-17 (S.D. Iowa Aug. 24, 2004).
10. Attached hereto as Exhibit I is a true and correct copy of Declaration of Richard D. Bednar, JA-0152.
11. Attached hereto as Exhibit J is a true and correct copy of *Abbott Diabetes Care Inc. v. Dexcom, Inc.*, C.A. No. 05-590-GMS, 2006 U.S. Dist. LEXIS 57469, *20 (D. Del. Aug. 16, 2006).
12. Attached hereto as Exhibit K is a true and correct copy of *Softview Computer Prods. Corp. v. Haworth, Inc.*, 2000 U.S. Dist LEXIS 4254, at *3 (S.D. N.Y. 2000)
13. Attached hereto as Exhibit L is a true and correct copy of a document entitled "Teleflex v. KSR: The TSM Obviousness Test Argued At The Supreme Court - Is It Really "Gobbledygook?"
14. Attached hereto as Exhibit M is a true and correct copy of a document from the U.S. Patent and Trademark Office entitled "USPTO Improves Process For Reviewing Patents."
15. Attached hereto as Exhibit N is a true and correct copy of *Broadcast Innovation, L.L.C., v. Charter Communications, Inc.*, 2006 U.S. Dist. LEXIS 46623, at *26-30 (D. Colo. July 11, 2006).

I declare under penalty of perjury of the laws of the United States that the foregoing is true and correct.

Executed this 23rd day of March, 2007. /s/ David E. Moore
David E. Moore

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**IN THE UNITED STATES DISTRICT COURT
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CERTIFICATE OF SERVICE

I, David E. Moore, hereby certify that on March 23, 2007, the attached document was electronically mailed and hand delivered to the following persons and was electronically filed with the Clerk of the Court using CM/ECF which will send notification to the registered attorney(s) of record that the document has been filed and is available for viewing and downloading:

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I hereby certify that on March 23, 2007, I have Electronically Mailed and Federal Expressed the documents to the following:

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